

OCT 18 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SIMON CIRINEO ABRAJAN
HERNANDEZ and MARIA TERESA
ABRAJAN,

Petitioners,

v.

PETER D. KEISLER,** Acting Attorney
General,

Respondent.

No. 07-70859

Agency Nos. A75-755-288
A75-758-822

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 10, 2007***

Before: PREGERSON, THOMAS and RAWLINSON, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

07-70859

Petitioner's motion to proceed in forma pauperis is granted. The Clerk shall amend the docket to reflect this status.

This is a petition for review of the Board of Immigration Appeals' ("BIA") decision denying petitioners' request to reissue the BIA's July 22, 2004 decision affirming the immigration judge's denial of cancellation of removal. After review of the filings and the record in this case, this court finds the petition for review is appropriate for summary disposition. The BIA did not abuse its discretion by denying petitioners' motion to reissue its prior decision. *Cf. Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004).

All other pending motions are denied as moot. The temporary stay of removal remains in effect pending issuance of the mandate.

PETITION FOR REVIEW DENIED.

*** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

07-70859

OCT 18 2007

PREGERSON, Circuit Judge, dissenting:

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

I dissent. This case, and the 60 others like it filed today, will have an adverse effect on children born in the United States whose parent/parents are illegal immigrants. When a parent is denied cancellation of removal, the government effectively deports the United States-born children of that parent. This unconscionable result violates due process by forcing children either to suffer de facto expulsion from the country of their birth or forego their constitutionally-protected right to remain in this country with their family intact. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503-05 (1977) (“Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (recognizing that “[t]he integrity of the family unit has found protection in the Due Process Clause of the 14th Amendment”).

Furthermore, as a nation we should recognize that many who came here illegally and many children born of illegal immigrants serve and have served with honor and distinction in our military forces, and many have laid down their lives on the altar of freedom.

07-70859

As I have said before, “I pray that soon the good men and women in our Congress will ameliorate the plight of families like the [petitioners] and give us humane laws that will not cause the disintegration of such families.” *Cabrera-Alvarez v. Gonzales*, 423 F.3d 1006, 1015 (9th Cir. 2005).